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House of Representatives
Forty-ninth Legislature
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2010

House Engrossed
FILED
KEN BENNETT
SECRETARY OF STATE

CHAPTER 119

HOUSE BILL 2111

AN ACT

AMENDING SECTION 44-302, ARIZONA REVISED STATUTES; RELATING TO PRESUMPTIONS
OF ABANDONMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 44-302, Arizona Revised Statutes, is amended to
3 read:

4 44-302. Presumptions of abandonment

5 A. Property is presumed abandoned if it is unclaimed by the apparent
6 owner according to the following schedule:

7 1. A traveler's check is presumed abandoned ~~three~~ FIFTEEN years after
8 issuance.

9 2. A money order or similar written instrument, other than a third
10 party bank check, is presumed abandoned three years after issuance.

11 3. Any stock or other equity interest in a business association or
12 financial organization, including a security entitlement under title 47,
13 chapter 8, is presumed abandoned two years after any of the following,
14 whichever occurs first:

15 (a) The date of the most recent dividend, stock split or other
16 distribution that is unclaimed by the apparent owner.

17 (b) The date of the second mailing of a statement of account or other
18 notification or communication that was returned as undeliverable.

19 (c) The date the holder discontinued mailings, notifications or
20 communications to the apparent owner.

21 4. The principal on debt, other than a bearer bond or an original
22 issue discount bond, of a business association or financial organization is
23 presumed abandoned two years after the maturity date and the interest on the
24 debt is presumed abandoned two years after the payment date.

25 5. A demand, savings or time deposit, including a deposit that is
26 automatically renewable, and any interest or dividends are presumed abandoned
27 three years after maturity or the date of the last indication by the owner of
28 interest in the property, whichever occurs first. For the purposes of this
29 paragraph, a deposit that is automatically renewable is deemed matured on its
30 initial date of maturity, unless the owner has consented to a renewal at or
31 about the time of the renewal and the consent is in writing or is evidenced
32 by any memorandum or other record on file with the holder.

33 6. Credits owed to a customer as a result of a retail business
34 transaction are presumed abandoned three years after the obligation accrued.

35 7. An amount owed by an insurance company on a life or endowment
36 insurance policy or an annuity that has matured or terminated is presumed
37 abandoned three years after the obligation to pay arose or, in the case of a
38 policy or annuity that is payable on proof of death, the amount is presumed
39 abandoned one year after the insured has attained, or would have attained if
40 the insured were living, the limiting age under the mortality table on which
41 the reserve is based. For the purposes of this paragraph, all of the
42 following conditions apply:

43 (a) If a person other than the insured or annuitant is entitled to the
44 owed amount and the person's address is not known to the company or it is not
45 definite and certain from the records of the company who is entitled to the

1 amount, it is presumed that the last known address of the person who is
2 entitled to the amount is the same as the last known address of the insured
3 or annuitant according to the company's records.

4 (b) Notwithstanding any law, if the company learns of the death of the
5 insured or annuitant and the beneficiary has not communicated with the
6 insurer within four months after the death, the company shall take reasonable
7 steps to pay the proceeds to the beneficiary.

8 (c) Every change of beneficiary form issued by an insurance company
9 under any life or endowment insurance policy or annuity contract to an
10 insured or owner who is a resident of this state shall request the following
11 information:

12 (i) The name of each beneficiary, or if a class of beneficiaries is
13 named, the name of each current beneficiary in the class.

14 (ii) The address of each beneficiary.

15 (iii) The relationship of each beneficiary to the insured.

16 8. A life or endowment insurance policy or annuity contract not
17 matured by actual proof of the death of the insured or annuitant according to
18 the company's records is deemed matured and the proceeds are deemed due and
19 payable and are presumed abandoned after one year if all of the following
20 conditions apply:

21 (a) The insured has attained, or would have attained if the insured
22 were living, the limiting age under the mortality table on which the reserve
23 is based.

24 (b) The policy was in force at the time the insured attained or would
25 have attained the limiting age specified in subdivision (a) of this
26 paragraph.

27 (c) Neither the insured nor any other person who appears to have an
28 interest in the policy within the last year according to the company's
29 records has assigned, readjusted or paid premiums on the policy or subjected
30 the policy to a loan, corresponded in writing with the company concerning the
31 policy or otherwise indicated an interest as evidenced by a memorandum or any
32 other record on file with and prepared by an employee of the company.

33 9. Property that is distributable by a business association or
34 financial organization in a course of dissolution is presumed abandoned one
35 year after the property becomes distributable.

36 10. Property that is received by a court as proceeds of a class action
37 and that is not distributed pursuant to the judgment is presumed abandoned
38 one year after the distribution date.

39 11. Property that is held by a court, government or governmental
40 subdivision, agency or instrumentality, except for support as defined in
41 section 25-500 or for spousal maintenance, is presumed abandoned two years
42 after the property becomes distributable. Monies held for the payment of
43 warrants by a state agency that remain unclaimed by the owner at the time of
44 the void date printed on the face of the warrant are presumed abandoned. For

1 the purposes of this paragraph, governmental subdivision does not include a
2 special taxing district as defined in section 48-241.

3 12. Wages or other compensation for personal services is presumed
4 abandoned one year after the compensation becomes payable.

5 13. Property in any individual retirement account, defined benefit plan
6 or other account or plan that qualifies for tax deferral under the income tax
7 laws of the United States is presumed abandoned two years after any of the
8 following, whichever occurs first:

9 (a) The date of the distribution or attempted distribution of the
10 property.

11 (b) The date of the required distribution as stated in the plan or
12 trust agreement that governs the plan.

13 (c) If determinable by the holder, the date specified in the income
14 tax laws of the United States by which distribution of the property must
15 begin in order to avoid a tax penalty.

16 14. Any amount that is payable on a check, draft or similar instrument
17 on which a financial organization or business association is directly liable,
18 including a cashier's check and a certified check, and that has been
19 outstanding for more than three years after the check, draft or similar
20 instrument was payable or after issuance if payable on demand is presumed
21 abandoned unless within three years the owner has communicated in writing
22 with the financial organization or business association concerning the check,
23 draft or similar instrument or otherwise indicated an interest as evidenced
24 by a memorandum or any other record on file and prepared by an employee of
25 the financial organization or business association.

26 15. All other property is presumed abandoned three years after the
27 owner's rights to demand the property or after the obligation to pay or
28 distribute the property arises, whichever occurs first.

29 16. Excess proceeds deposited with the county treasurer pursuant to
30 section 33-812 are presumed abandoned if the monies remain with the treasurer
31 for at least two years from the date of deposit and there is no pending
32 application for distribution.

33 17. Any dividend, profit, distribution, interest, redemption, payment
34 on principal or other sum held or owing by a business association for or to
35 its shareholder, certificate holder, member, bondholder or other security
36 holder who has not claimed it, or corresponded in writing with the business
37 association concerning it, is presumed abandoned two years after the date
38 prescribed for payment or delivery.

39 B. At the time that an interest is presumed abandoned under subsection
40 A of this section, any other property right accrued or accruing to the owner
41 as a result of the interest, and not previously presumed abandoned, is also
42 presumed abandoned.

43 C. Property is unclaimed if, for the applicable period prescribed in
44 subsection A of this section, the apparent owner has not communicated in
45 writing with the holder or communicated by other means reflected in a

1 contemporaneous record that is prepared by or on behalf of the holder and
2 that concerns the property or the account or accounts in which the property
3 is held and has not otherwise indicated an interest in the property and if
4 the holder has not communicated in writing with regard to the property that
5 would otherwise be unclaimed. A communication with an owner by a person
6 other than the holder or the holder's representative who has not identified
7 the property in writing to the owner is not an indication of interest in the
8 property by the owner.

9 D. An indication of an owner's interest in property includes:

10 1. The presentment of any check or other instrument of payment of any
11 dividend or other distribution that is made with respect to any account,
12 underlying stock or other interest in a business association or financial
13 organization. If the distribution is made by electronic or similar means an
14 indication of an owner's interest includes evidence that the distribution has
15 been received.

16 2. Activity directed by the owner in the account in which the property
17 is held, including a direction by the owner to increase, decrease or change
18 the amount or type of property held in the account.

19 3. The making of a deposit to or withdrawal from a bank account.

20 4. The payment of a premium with respect to a property interest in an
21 insurance policy. The application of an automatic premium loan provision or
22 any other nonforfeiture provision in an insurance policy does not prevent a
23 policy from maturing or terminating if the insured has died or if the insured
24 or the beneficiary of the policy has otherwise become entitled to the
25 proceeds before the depletion of the cash surrender value of a policy by the
26 application of those provisions.

27 E. Property is payable or distributable notwithstanding the owner's
28 failure to make demand or present an instrument or document otherwise
29 required to obtain payment.

APPROVED BY THE GOVERNOR APRIL 23, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 26, 2010.